



Patent
Attorney's Docket No. 027650-958

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

#29
5-28-02
JON

In re Patent Application of)
Morio HARA et al.) Group Art Unit: 1773
Application No.: 08/973,416) Examiner: K. Kruer
Filed: November 14, 1997)
For: RESIN COMPOSITION AND)
LAMINATE FOR STORAGE OF)
LIQUID FOODS)

RECEIVED
MAY 24 2002
TC 1700

SUBMISSION OF DECLARATION UNDER 37 C.F.R. §1.132

Assistant Commissioner for Patents
Washington, D.C. 20231

Sir:

In accordance with the statement set forth on page 7 of the Preliminary Amendment dated April 29, 2002, provided herewith is a Declaration Under 37 C.F.R. §1.132 by Shozo Shimizu, the Declarant in the previously filed Declarations. The instant Declaration explains the reasons why the evidence submitted in the previous Declarations is applicable to the invention defined in the claims. More specifically, the Declaration states that an important advantage of the invention is that the oxygen absorbing capability of the hydrophilic reducing organic compound is preserved in air (i.e., when it is in storage out of contact with water), but is exhibited once the compound is contacted with water. The Declaration further states that this advantage is obtained in accordance with certain aspects of the invention by kneading the hydrophilic reducing organic compound with a water insoluble thermoplastic resin wherein the hydrophilic and water insoluble thermoplastic resin provides an oxygen gas barrier for the hydrophilic reducing organic compound (and, if it is present, a porous inorganic compound). The kneaded material is then kneaded with and dispersed in a hydrophobic thermoplastic resin.

The Declaration further explains that the relationship of the defined components provides the advantageous results which can be attained in accordance with the present invention whether the components are in the form of pellets, a composition or as a film and points out that pellets were used in the previous Declarations similar to the use of pellets in Embodiments 1-4 whose results are set forth in Table 1 on page 18 of the present specification and that pellets were also used in Embodiments 5-10 to form films that are used in laminates whose results are set forth in Table 2 on page 22 of the specification. The Declaration accordingly appropriately concludes that the results concerning pellets set forth in the previous Declarations, as well as in the present specification, relate to compositions and films (and laminates thereof).

For the reasons provided in the Declaration, applicants respectfully submit that the evidence that is of record in the specification and the Declarations Under 37 C.F.R. §1.132 properly support the patentability of the present invention.

Should the Examiner wish to discuss any aspect of the present application, he is again invited to contact the undersigned attorney at the number provided below.

Respectfully submitted,

BURNS, DOANE, SWECKER & MATHIS, L.L.P.

By: 

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Date: May 23, 2002



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DECLARATION UNDER 37 C.F.R. § 1.132

Assistant Commissioner for Patents
Washington, D.C. 20231

Sir:

I, Shozo Shimizu, do hereby declare:

1. I am a citizen of Japan and a co-worker of the inventors of the above-referenced patent application.
2. I received a Master's Degree in chemistry from Okayama University in 1977.
3. I am currently employed by Nihon Tetra Pak K.K. which belongs to the same group as the group to which Tetra Laval and Holdings & Finance, S.A. belongs. I have been employed by 'Nihon Tetra Pak' for eight years.
4. I am the Declarant of the previous Declarations signed on July 11, 2000 and May 14, 2001. I have noted a slight error in paragraphs 5. and 7. of the first Declaration wherein the reference to Comparative Examples 1-3 of the present specification should

have been identified as Reference Examples 1-4 of the present specification which are described on page 17.

5. On page 3 of the Official Action dated June 28, 2001, the Examiner has noted that the evidence provided in the previous Declarations related to a resin particle (more accurately a pellet) and has stated that the claims relate to a composition and a film (more accurately a laminate).

As described in greater detail in the present specification, an important advantage of the invention is that the oxygen absorbing capability of the hydrophilic reducing organic compound is preserved in air (i.e., when it is in storage out of contact with water), but is exhibited once the compound is contacted with water. To obtain this important advantage in accordance with certain aspects of the invention, the hydrophilic reducing organic compound is kneaded with a water insoluble thermoplastic resin wherein the hydrophilic and water insoluble thermoplastic resin provides an oxygen gas barrier for the hydrophilic reducing organic compound (and, if it is present, a porous inorganic compound). This kneaded material is then kneaded with and dispersed in a hydrophobic thermoplastic resin.

The relationship of the defined components provides the advantageous results which can be attained in accordance with the present invention whether the components are in the form of pellets, a composition or as a film. Pellets were used in the previous Declarations similar to the use of pellets in Embodiments 1-4 whose results are set forth in Table 1 on page 18 of the present specification. It will also be noted that in Embodiments 5-10 to form films that are used in laminates whose results are set forth in Table 2 on page 22 of the specification. Therefore, it is my conclusion that the results concerning pellets set forth

in the previous Declarations, as well as in the present specification, relate to compositions and films (and laminates thereof).

6. I further declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like are made punishable by fine or imprisonment or both under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the above-identified application or any patent issuing thereon.

Date

May 2, 2002

Shozo Shimizu

